IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE BOARD OF APPEALS AND INTERFERENCES
(Attorney Docket No. 14189US02)

In the Application of:	)	
	)	
Richard Martin	)	**Electronically filed on Oct. 4, 2010**
	)	
Serial No. 10/658,450	)	
	)	
Filed: September 9, 2003	)	
	)	
For: System and Method for Access Point (AP) Aggregation and Resiliency in a Hybrid Wired/Wireless Local Area Network	)	
	)	
Examiner: Kim, Wesley Leo	)	
	)	
Group Art Unit: 2617	)	
	)	
Confirmation No. 4742	)	

REPLY BRIEF

Mail Stop Appeal Brief – Patents
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

This Reply Brief responds to the Examiner's Answer that was mailed on August 3, 2010. The Appellant respectfully requests that the Board of Patent Appeals and Interferences ("Board") reverse the final rejection of claims 1-28 of the present application. This Reply Brief is timely filed within the period for reply that ends on October 3, 2010.

REMARKS

As an initial matter, the Appellant notes that the arguments set forth in the Examiner's Answer are essentially the exact same as those set forth in the Final Office Action. (Compare Examiner's Answer, pp. 3-7 with Final Office Action, pp. 4-7.) Accordingly, the Appeal Brief addresses these arguments. (*See* Appeal Brief, pp.8-26.) The Appellant will now address certain issues raised in the "Response to Arguments" section of the Answer.

A. Dependent Claims 5, 13, and 21

The Examiner responds to the Appellant's arguments regarding claims 5, 13 and 21, as follows:

> Appellants [argue] the proposed combination fail to teach "wherein said second access point group is communicatively coupled to a second default switch port of said network switch" (Pg.13 of Brief) and Appellant further argues that Gai's switch can not have both a first default switch and a second default switch (Pg.13 of Brief) since only one port can function as the root port at one time.
>
> The examiner respectfully disagrees. Examiner notes that Gai Clearly teaches that a back-up port is selected when the first default switch port fails (Co1.10:lines 49-67 and Co1.11:lines 1-7, and lines 41-51, the backup-port is the second default switch port (i.e. port 4), since it will become the default port once the first default switch port (i.e. port 3) fails). Further, from Fig.1 of Gai and Co1.2:lines 47-56, the LANs that were once connected to the first default switch port (Fig.1: port 3) will now be connected to the second default switch port (Fig.1: port 3). Therefore, a second LAN (Fig.1:LAN 102) will be connected to the second default switch port (Fig.1:port 4) which, as taught by the Cook reference is obvious that a group of access points can be connected to a LAN ((Co1.3:lines 37-46)).
>
> Further, Examiner notes that the claim language does not say that the first and second default switch ports must be provided

> at the same time, as the appellant seems to be indicating. The examiner has interpreted the claims such that a first default switch port can be provided at a first time and a second default switch port being provided at a second time, which reads on the recited claim language.

(Answer, pp.10-11.) The Appellant disagrees and respectfully submits that the Examiner is incorrectly interpreting the claims and the cited references.

In rejecting claim 1, the Examiner equates Gai's root port (e.g., port number 3 of switch 114) to the claimed "first default switch port" and Gai's back-up port (e.g., port numbers 2 or 4 of switch 114) to the claimed "at least one available switch port." Then, in rejecting claim 5, the Examiner contends that the backup port 4 also satisfies the "second default port" limitation of claim 5. However, when read in the context of claim 1, claim 5 requires, *inter alia*, "[a] **first access point group** is communicatively **coupled to** a **first default switch port** of said network switch [and a] **second access point group** is communicatively **coupled to** a **second default switch port** of said network switch . . . ." In other words, claim 5 requires **both** a first access point group coupled to a first default switch and a second access point group coupled to a second default switch.

Gai fails to disclose or suggest a first access point group coupled to a first default switch and a second access point group coupled to a second default switch. Specifically, Gai's switch 114 (allegedly the claimed "network switch") only has one root port (allegedly the claimed "default switch port") at any given time:

> **Each switch within the network also selects one port, known as its "root port"** which gives the lowest cost path (e.g., the fewest number of hops, assuming all links have the same cost) from the switch to the root. The root ports and

> designated switch ports are selected for inclusion in the spanning tree and are placed in a forwarding state so that data frames may be forwarded to and from these ports and thus onto the corresponding paths or links. **Ports not included within the spanning tree are placed in a blocked state. When a port is in the blocked state, data frames will not be forwarded to or received from the port.** At the root, all ports are designated ports and are therefore placed in the forwarding state, except for some self-looping ports, if any. A self-looping port is a port coupled to another port at the same switch.

(Gai, 2:57-67.) Furthermore, the current root port will service all of the LANs that are connected to a given switch. For example, in the context of Gai's switch 114 (allegedly the claimed "network switch"), LANs 102 and 103 will both be serviced at any given time by only one of port numbers 2, 3 and 4. Hence, if port 3 is functioning as the root port, both LANs 102 and 103 will be serviced by port 3. If port 4 subsequently becomes the new root port, LANs 102 and 103 will then both be serviced by port 4, instead of port 3. Thus, even under the Examiner' interpretation of "coupled to," Gai fails to disclose or suggest **both** "[a] **first access point group** is communicatively **coupled to** a **first default switch port** of said network switch . . ." **and** "[a] **second access point group** is communicatively **coupled to** a **second default switch port** of said network switch . . ," as required by claims 5, 13 and 21.[1]

Accordingly, claims 5, 13, and 21 are patentable over Gai, Jefferies and Cook for the above reasons and the reasons set forth in the Appeal Brief. The Appellant

[1] The Appellant maintains that LANs 102 and 103 are coupled to the ports 7 and 8 and are not coupled to port 3 as alleged by the Examiner.

reserves the right to argue additional reasons beyond those set forth above to support the allowability of these claims.

B. Dependent Claims 6, 14, and 22

The Examiner responds to the Appellant's arguments regarding claims 6, 14 and 22 as follows:

> [The Appellant argues] Gai cannot teach "provisioning at least a third available switch port of said network switch to provide service to said second access point group" (Page 14 of Brief).
>
> The examiner respectfully disagrees. Gai teaches in Co1.11:lines 8-24 that each access switch has a port which provides access to a root and Co1.10:lines 49-67 and Co1.11:lines 1-7, and lines 41-51 clearly indicate that ports 3, 4, or 2 could be used. So if the second default root port 4 communicatively coupled to second LAN (i.e. LAN 102) as seen in response to Appellants argument 4 above fails, then LAN 102 (i.e. second LAN) could use port 2 (i.e. third default switch port) to forward data to the root. The examiner notes that while the actual invention may differ from the examiners interpretation. The claims are broadly recited and the examiners interpretation and mapping of the references to the claims anticipate the broadly recited Claim language.

(Answer, p. 11.) The Examiner's analysis of claims 6, 14 and 22 is incorrect for essentially the same reasons as stated above with regard to claims 5, 13, and 21. Specifically, the Examiner equates the back-up ports of switch 114 to the claimed "available switch port." However, as discussed above in connection with claim 5, only one port in Gai's switch can function as the root port at any given time. All other potential root ports, e.g., back up port numbers 2 and 4, are blocked until one of them is reconfigured as the new root port, e.g., when the original root port 3 fails. Hence, because Gai only has one functioning root port at a given time, it cannot disclose both

"provisioning said at least one available switch port of said network switch to provide service to said first access point group" and "provisioning at least a third available switch port of said network switch to provide service to said second access point group," as required by claims 6, 14 and 22.

Accordingly, claims 6, 14, and 22 are allowable over Gai, Jefferies and Cook at least for the above reasons and the reasons set forth in the Appeal Brief

CONCLUSION

For at least the foregoing reasons, the Appellant submits that the pending claims are in condition for allowance. The Appellant therefore requests that the Board reverse the Examiner's rejections of claims 1-28 and issue a patent on this application.

No fee is believed to be due in connection with this submission. The Commissioner is hereby authorized to charge additional fee(s) or credit overpayment(s) to the deposit account of McAndrews, Held & Malloy, Ltd., Account No. 13-0017.

Respectfully submitted,

Date: October 4, 2010

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